

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christina Vuong	Team: Squad #16	CCRB Case #: 201405549	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/17/2014 8:20 PM	Location of Incident: [REDACTED]	Precinct: 43	18 Mo. SOL 11/17/2015	EO SOL 11/17/2015	
Date/Time CV Reported Thu, 06/05/2014 5:40 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/06/2014 9:52 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer		[REDACTED]	Unknown
2. POM Johnathan Lazzaro	13938	[REDACTED]	PSA 8
3. POM Perry Jean	27174	[REDACTED]	PSA 8
4. POF July Villafana	25239	[REDACTED]	PSA 8

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Danny Williams	06515	[REDACTED]	PSA 8
2. POM Justin Tam	06167	[REDACTED]	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: In the lobby of [REDACTED] in the Bronx, an officer stopped [REDACTED]	[REDACTED]
B.POM Johnathan Lazzaro	Abuse: At the rear of [REDACTED] in the Bronx PO Johnathan Lazzaro frisked [REDACTED]	[REDACTED]
C.POF July Villafana	Abuse: At the rear of [REDACTED] in the Bronx PO July Villafana frisked [REDACTED]	[REDACTED]
D.POM Perry Jean	Abuse: At the rear of [REDACTED] in the Bronx PO Perry Jean frisked [REDACTED]	[REDACTED]
E.POM Johnathan Lazzaro	Abuse: At the rear of [REDACTED] in the Bronx PO Johnathan Lazzaro searched [REDACTED]	[REDACTED]
F.POF July Villafana	Abuse: At the rear of [REDACTED] in the Bronx PO July Villafana searched [REDACTED] and his bookbag.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
G.POM Johnathan Lazzaro	Discourtesy: At the rear of [REDACTED] in the Bronx, PO Johnathan Lazzaro spoke rudely to [REDACTED]	[REDACTED]
H.POM Perry Jean	Discourtesy: At the rear of [REDACTED] in the Bronx, PO Perry Jean spoke rudely to [REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On May 17, 2014 at a time determined by the investigation as approximately 8:20 p.m., PO Johnathan Lazzaro, PO Danny Williams, PO July Villafana, and PO Perry Jean of PSA 8 engaged in a foot pursuit of an unidentified robbery suspect into [REDACTED] in the Bronx, which is part of the [REDACTED] NYCHA development. Shortly after, an unidentified uniformed male officer of an unknown command allegedly stopped [REDACTED] as he entered the building lobby (**Allegation A**).

At 9:50 p.m., PO Lazzaro, PO Williams, PO Villafana, and PO Jean stopped [REDACTED] and his friends [REDACTED] and [REDACTED] inside the park in the rear of [REDACTED] next to [REDACTED]. PO Lazzaro, PO Villafana, and PO Jean frisked [REDACTED] and [REDACTED] respectively (**Allegations B, C, and D**). PO Lazzaro searched [REDACTED] while PO Villafana searched [REDACTED] and his bookbag (**Allegations E and F**). PO Lazzaro allegedly told [REDACTED] to “shut the fuck up” (**Allegation G**). [REDACTED] alleged that PO Jean said to [REDACTED] “Shut up, you think you know everything, bitch” (**Allegation H**). The men were summonsed for remaining in the park after dark.

This case was initially assigned to Inv. Monique Woods. Upon her transfer to the New Investigations Division, the case was reassigned to the undersigned investigator on December 17, 2014.

Mediation and Criminal Histories

- § 87(2)(b)
- As of May 20, 2015, [REDACTED] and [REDACTED] have not filed a notice of claim in regards to this incident.
- On May 4, 2015, a Bronx Criminal Court associate clerk with the last name Sparling stated that there was no record of the summonses issued to [REDACTED] or [REDACTED]
- [REDACTED] has no prior criminal convictions.

Civilian and Officer CCRB Histories

- PO Lazzaro and PO Villafana have been members of the service for two years. PO Jean has been a member of the service for three years. This is the first CCRB complaint against the three officers.
- This is [REDACTED] and [REDACTED] first CCRB complaint.

Civilian Statements:

Complainant/Victim: [REDACTED]

- [REDACTED] years old at the time of the incident, is a 5’10” tall, 155-lb, light-skinned black man.
- At a time determined by the investigation as 8:20 p.m., [REDACTED] and his friend [REDACTED] were in the park at the rear of [REDACTED] and next to his residence, located at [REDACTED], when they observed approximately four uniformed male officers chase a dark-skinned, heavy-set, [REDACTED]-year-old black man wearing a black sweater and tan pants into the building. The officers were a mix of black, Hispanic, and Asian men. More than one of the officers was Asian.
- [REDACTED] and [REDACTED] briefly went inside the building up to his apartment. [REDACTED] was wearing a white shirt and black and white athletic pants. When they came back downstairs, they saw the same four officers standing in the lobby. PO1, described as a 5’10” tall, 34 to [REDACTED]-year-old East Asian man with a thin build, whom [REDACTED] could not describe further, grabbed [REDACTED]’s arm and pulled him into the wall. PO1 did not say anything before grabbing [REDACTED]. PO1 asked the officers around him if [REDACTED] was the suspect, and another officer he could not describe said that [REDACTED] was not. There was no further interaction afterwards.
- [REDACTED] stated that he would not be able to pick out PO1 if shown a photo array and he could not distinguish between PO1 and the other Asian officers in the group.

- [REDACTED] left the building and went back to the park, where his [REDACTED]-year-old cousin [REDACTED] was playing basketball. [REDACTED] sat on the benches outside of the basketball court, joined by his friends [REDACTED] and [REDACTED] who had been playing basketball prior.
- At a time determined by the investigation as 9:50 p.m., three male officers and one female plainclothes officer, identified by the investigation as PO Lazzaro, PO #####, PO Jean, and PO Villafana approached them. [The investigation determined that the officers were dressed in uniform.]
- PO Lazzaro, described as a 5'7" tall white Hispanic man in his 30s with black hair, asked to see [REDACTED] ID, which he provided.
- PO Lazzaro then patted down [REDACTED] pockets, in which he had keys and headphones in one pocket and money in the other, before unzipping the pockets and removing the contents.
- PO Jean, described as a 6'4" tall bald black male officer, interacted with [REDACTED]. At some point, [REDACTED] saw PO Jean with [REDACTED]'s ID, but did not know how PO Jean came to possess it.
- [REDACTED] stated that a white Hispanic male officer approached [REDACTED]. [The investigation determined that PO Villafana, a Hispanic female officer, actually approached [REDACTED].]
- [REDACTED] and [REDACTED] asked why they were stopped, and the officers explained that they were not supposed to be in the park at night. PO Lazzaro told [REDACTED] to "shut the fuck up," and PO Jean told [REDACTED] "Shut up. You think you know everything, bitch." [REDACTED] did not hear any additional use of profanity.
- [REDACTED] saw PO Lazzaro write his summons, PO Jean write [REDACTED] summons, and PO Williams or PO Villafana write [REDACTED] summons.
- [REDACTED] was instructed to leave the park by one of the officers. He remained outside watching. After [REDACTED] was searched, he saw that [REDACTED] and his cousin [REDACTED] and other unidentified friends had joined [REDACTED] sister [REDACTED] and aunt [REDACTED]. [REDACTED] arrived after the incident concluded.

Victim: [REDACTED]

- [REDACTED] years old at the time of the incident, is a light-skinned Hispanic man.
- [REDACTED] provided phone statements to the CCRB on November 7, 2014 and May 4, 2015. [REDACTED] On February 3, 2015, [REDACTED] was contacted by phone and stated that he was "done with the case a while back" and no longer wanted to participate in the investigation process.
- [REDACTED] was not involved in the first part of the incident.
- PO Villafana asked for [REDACTED]'s ID and address. He did not have any ID on his person at the time. Immediately after her request, [REDACTED] verbally provided his information to PO Villafana.
- PO Villafana took [REDACTED] bookbag, which was previously closed, from him, opened it, and looked inside. She handed it back to [REDACTED] and told him to empty the backpack and find a piece of paper with his name on it. [REDACTED] found a school worksheet and showed it to her.
- After PO Villafana wrote his information down on the summons, she patted down [REDACTED]'s legs, upper body, and arms. She then searched [REDACTED] jeans pockets, but there was nothing inside.
- [REDACTED] observed PO Lazzaro frisk [REDACTED] and search his pockets. He was unsure about PO Jean's interaction with [REDACTED].
- [REDACTED] heard PO Lazzaro and PO Jean ask for his friends' IDs, but did not know when his friends presented documentation to the officers.
- [REDACTED] heard, but did not see, a male officer say to the men, "Don't fucking worry about what's going on here."
- [REDACTED] observed PO Lazzaro say to [REDACTED] "Shut the fuck up. I'll throw you on the floor."

- [REDACTED] stated that [REDACTED] the mother of a friend, later arrived at the scene. He alleged that an unidentified 6' tall white male officer, who arrived after the incident ended, said to [REDACTED] "Get the fuck out of my face."

Victim: [REDACTED]

- [REDACTED] [REDACTED] years old at the time of the incident, is a 5'8" tall, 150-lb black man.
- On August 8, 2014, [REDACTED] was contacted by phone and stated that he did not recall any incident involving an interaction with police officers outside of [REDACTED] [REDACTED] on May 17, 2014.

Witness: [REDACTED]

- [REDACTED] provided a phone statement to the CCRB on July 23, 2014, but missed an appointment on August 1, 2014 and did not cooperate with subsequent contact attempts to reschedule. [REDACTED] added that [REDACTED] was present for the second part of this incident.
- [REDACTED] was not present for the first part of this incident.
- Before the uniformed officers approached [REDACTED] PO Villafana asked the ages of [REDACTED] and the friends with whom he was playing basketball. She told them to leave when they answered, "[REDACTED]." [REDACTED] left the park but remained close by, standing outside of the gate.
- [REDACTED] corroborated [REDACTED]'s statement regarding PO Lazzaro's frisk and search of [REDACTED] pockets. He added that unspecified officers smelled the contents of [REDACTED] Arizona Iced a can. [REDACTED] did not see how PO Lazzaro came to be in possession of [REDACTED]'s ID.
- [REDACTED] stated that other officers also searched [REDACTED] and [REDACTED] but he could not describe the search further or discern which officers were doing the searching because his attention was focused on [REDACTED]
- [REDACTED] stated that when [REDACTED]'s mother later went to the precinct stationhouse, unspecified officers refused to answer her questions about the incident [REDACTED].

Additional Witnesses

- [REDACTED] and [REDACTED] were contacted by phone and confirmed witnessing the incident, but refused to provide any phone statements to the CCRB or to schedule an interview.
- On July 24, 2014, [REDACTED] was contacted by phone and denied witnessing the incident but stated [REDACTED] witnessed the incident.
- On September 11, 2014, [REDACTED] was contacted by phone and stated that she did not witness the incident.
- [REDACTED] did not respond to any contact attempts via phone, mail, or email. None of the letters mailed to her were returned to the CCRB as undeliverable.

Officer Statements:

Subject Officer: PO JOHNATHAN LAZZARO

- PO Lazzaro, [REDACTED] years old at the time of the incident, is a 5'8" tall, 165-lb Hispanic man.
- At 8:20 p.m., at the side of [REDACTED] [REDACTED] an unidentified woman pointed out a male perpetrator, whose description he did not recall at the time of the interview, to PO Lazzaro and his partner PO Williams. The woman stated that the man snatched a gold chain from her neck, causing injury to the area. There was no indication weapons were involved. PO Lazzaro and PO Williams immediately pursued the man on foot into [REDACTED] [REDACTED] but lost sight of him upon entering the lobby. PO Lazzaro denied having his gun drawn. He did not know if any other officers participated in the foot pursuit.

- PO Lazzaro transmitted a radio run regarding the robbery. An unknown number of additional units from unknown commands responded to the location.
- PO Lazzaro denied conducting or witnessing any stops in the lobby of [REDACTED]. He did not see any officer grab a black male or push him into a wall inside of the building.
- At 9:50 p.m., PO Lazzaro and PO Williams observed [REDACTED] and a group of unknown size inside the park after dark, a violation. The officers approached [REDACTED] and the group. He did not see or interact with [REDACTED] prior. He did not recall any indication that [REDACTED] or the group members resembled the robbery suspect. PO Lazzaro did not recall any other officers to be involved in the stop.
- PO Lazzaro did not recall why [REDACTED] stood out to him as opposed to the other group members. He did not recall specifically interacting with anyone but [REDACTED]. He did not recall any group member to have a bag.
- PO Lazzaro did not recall seeing any bulges to [REDACTED]'s person. PO Lazzaro did not recall frisking or searching [REDACTED]. He did not recall any indication [REDACTED] or other members of his group were armed or dangerous.
- PO Lazzaro did not recall any difficulty in obtaining [REDACTED]'s pedigree information, and did not recall any civilian protesting the officers' actions.
- PO Lazzaro did not recall using profanity, or saying, "Shut the fuck up," or the word, "bitch."
- Even after being presented with the summonses issued by PO Jean and PO Villafana, PO Lazzaro did not recall additional civilians being summonsed or other officers engaging with the group.

Subject Officer: PO JULY VILLAFANA

- PO Villafana, [REDACTED] years old at the time of the incident, is a 5'2" tall, 120-lb Hispanic woman.
- PO Villafana observed PO Lazzaro running with gun in hand as he and PO Williams ran after the chain snatching suspect. PO Jean and Villafana joined in the foot pursuit.
- PO Villafana denied conducting a stop or seeing any officers conduct a stop in the lobby of [REDACTED]. She also denied grabbing and pushing a black man against a wall inside the building.
- PO Villafana was unsure if there was any other criminal activity apart from the park violation. [REDACTED] and [REDACTED] did not resemble the chain snatching suspect.
- While PO Villafana approached [REDACTED], PO Lazzaro approached [REDACTED] and PO Jean approached [REDACTED]. [REDACTED] was holding onto a bookbag.
- PO Villafana stated that after the initial approach, one of the officers transmitted a radio run regarding the stop and that within a minute, PSA 8 officers whom she could not identify arrived at the scene.
- [REDACTED] refused to answer PO Villafana's questions about what he was doing in the park, and did not comply with multiple requests for his name and ID. She informed him he would be receiving a summons.
- PO Villafana frisked [REDACTED], searched him, and [REDACTED] searched his bookbag. She stated that these were "typical actions" when summonses are issued, because a summons is in lieu of an arrest, a process in which the defendants would be frisked and searched multiple times. She stated that at the time of the frisk and searches, she did not consider [REDACTED] to be under arrest and had planned to eventually release him with a summons.
- PO Villafana did not recall if she observed any bulges to [REDACTED] clothing. She did not recall feeling anything suspicious during her frisk of his entire body. She stated that she would still search in this instance as it was "procedure." She did not recall if any items were recovered from the search of his pockets. PO Villafana did not observe any remarkable shape to [REDACTED]'s bookbag, which looked like a normal backpack with "stuff inside." Her search revealed books to be inside. When asked if at any point she believed him to possess weapons, she stated that she did not know who he was at the time of the stop.

- Following the frisk and search and after PO Villafana stated that he would be taken to the stationhouse otherwise, [REDACTED] finally produced his ID.
- PO Villafana was focused on [REDACTED] and did not observe PO Lazzaro and PO Jean's interaction with [REDACTED] and [REDACTED]. She did not see them frisk or search the other two men.
- PO Villafana did not hear any officer say "shut the fuck up" or "bitch."

Subject Officer: PO PERRY JEAN

- PO Jean, [REDACTED] years old at the time of the incident, is a 6' tall, 218-lb black man.
- At 8:20 p.m., PO Jean and his partner PO Villafana observed an unknown number of officers, two of whom were identified by the investigation as PO Lazzaro and PO Williams, chase a suspect into [REDACTED]. He did not recall him or PO Villafana participating in the foot pursuit. He denied going inside of [REDACTED] and did not observe any officers stop any individuals inside, or grab or push a civilian into the wall at the location.
- PO Jean believed that multiple units from PSA 8 and the 43rd Precinct responded to the robbery.
- At 9:50 p.m., PO Jean, PO Lazzaro, and PO Villafana stopped a group of men inside the playground at the rear of [REDACTED]. PO Jean did not recall if PO Williams was present.
- PO Jean did not suspect any other criminal activity beyond the park violation.
- PO Jean approached [REDACTED] and told him multiple times to leave, but [REDACTED] refused. [REDACTED] accused the officers of harassment.
- PO Jean did not recall any of the three men making suspicious movements, and did not recall seeing any bulges to their clothing. PO Jean stated that there was nothing about ### #####, ### #####, or [REDACTED] that appeared "out of the ordinary" or led him to suspect they were armed.
- PO Jean was focused on [REDACTED] and did not recall the other individuals' demeanor.
- PO Jean frisked [REDACTED] waist and legs after obtaining his ID. He stated that "it was protocol" to frisk, as he did not know what [REDACTED] could have on him, [REDACTED] refused to leave the location, and had committed a violation. PO Jean did not recall feeling anything during the frisk, and denied searching [REDACTED].
- PO Jean did not observe PO Villafana or PO Lazzaro frisk or search the other civilians, and did not see them search any bags.
- PO Jean denied that any officer used profanity, or said "Shut the fuck up" or "bitch."

Witness Officer: PO DANNY WILLIAMS

- PO Williams, [REDACTED] years old at the time of the incident, is a 5'9" tall, 205-lb, light-skinned black man.
- PO Williams denied that PO Lazzaro had his gun drawn during the foot pursuit.
- PO Williams denied conducting a stop, or seeing any officer stop any individuals, inside of [REDACTED].
- Inside the park, PO Williams stood to the side as PO Lazzaro stopped Williams. He did not recall if PO Lazzaro frisked or searched [REDACTED].
- [REDACTED] and [REDACTED] were present, but PO Williams did not recall anything about them or any enforcement action taken with regards to them. He did not interact with any civilians.
- PO Williams did not suspect any other crime other than the park violation. He did not recall any indication that the men were armed.
- PO Jean and PO Villafana were present but he did not recall their role. He did not see PO Villafana or PO Jean frisk any of the men.
- PO Williams did not recall any difficulties during the stop.
- PO Williams did not recall any officer saying, "Shut the fuck up," or "bitch."

Witness Officer: PO JUSTIN TAM

- PO Tam, [REDACTED] years old at the time of the incident, is a 5'7" tall, 155-lb Asian man.
- PO Tam did not witness or participate in a foot pursuit at the time he arrived on scene. PO Tam denied conducting a stop, or seeing any officer stop any individuals, inside of [REDACTED]. He denied ever entering [REDACTED] stating that he conducted a vertical only at [REDACTED]. He did not observe any civilians who matched the description of the chain snatching suspect.
- PO Tam stated that he was the only Asian officer from PSA 8 working during that tour. He did not recall if he saw other Asian officers from different commands respond to the robbery.
- PO Tam stated that PSA 8 shares a radio frequency with the 43rd and 45th Precincts.
- PO Tam did not observe any stops conducted in the rear of [REDACTED]

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NYPD Documents

- The Tour 3 PSA 8 Roll Call on May 17, 2014 noted that PO Jean was assigned to Footpost #136, PO Villafana was assigned to Footpost #236, PO Williams was assigned to Footpost #536, and PO Lazzaro was assigned to Footpost #736. PO Tam was assigned to Footpost #436. There is no officer assigned to Footpost #347. (02 Board Review)
- SPRINT Event Summaries (03 Board Review)
 - [REDACTED] noted a transmission by PO Jean that a black man wearing a black hoodie and blue jeans fled into [REDACTED]. PO Lazzaro added that the perpetrator wore peach-colored jeans. PO Williams noted that a vertical was conducted with negative results. The only additional unit noted on the SPRINT was an unidentified sergeant from PSA 8. The SPRINT noted that the radio run was transmitted over additional channels such as the Citywide division, Special Operations division, and the Bronx Transit Authority.
 - [REDACTED] noted a transmission by PO Lazzaro about an investigation of a possible crime, suspicious person outside. No additional details were provided.
 - [REDACTED] noted a transmission about an investigation of a possible crime, suspicious person outside, by Housing Footpost #347 [unknown]. No additional details were provided.
- The radio communications audio files corresponding to the above SPRINTs were requested by the originally assigned investigator in September 2014 but were never received. Upon reassignment, the case was seven months old and past the six-month expiration of the audio files.
- The PSA 8 and 43rd Precinct Stop, Question, and Frisk Indices were negative for any related stops. (02 Board Review, 04 Board Review)
- Criminal Summonses (05 Board Review)
 - PO Lazzaro issued summons [REDACTED] to [REDACTED] for remaining in a public park when it was closed to the public. He noted the corresponding SPRINT number as "[REDACTED]"
 - PO Villafana and PO Jean issued summonses # [REDACTED] and [REDACTED], respectively to [REDACTED] and [REDACTED] for remaining in a NYCHA park after dark. They noted the corresponding SPRINT number as "[REDACTED]"
- Memo book entries were obtained for PO Kiel Suh, PO Christopher Wong, and PO Steven Duch, the three East Asian male officers assigned to the 43rd Precinct who were working at the time of the

incident. However, their memo books contained no relevant entries and did not note their presence in the vicinity of the incident location. (06 Board Review)

Findings and Recommendations

§ 87(2)(g)

- § 87(2)(g)

Explanation of Subject Officer Identification

- [REDACTED] described the officer who allegedly stopped him in the lobby of [REDACTED] as a 5'10" tall East Asian man with a thin build and in his mid-30s. [REDACTED] stated that there was more than one East Asian male officer who was part of the group of officers, and that he could neither distinguish between them nor discern the subject officer if shown a photo array. [REDACTED] also stated that the group of four male officers in the lobby were the same as the ones chasing the male perpetrator. [REDACTED] did not recognize any of them to be involved in the second incident.]
 - Based on PO Villafana's statement, the investigation determined that PO Lazzaro, PO Jean, PO Williams, and PO Villafana were the four officers engaged in the foot pursuit. However, PO Villafana is female and none of the officers are Asian. The four officers denied conducting any stops in the lobby of [REDACTED] and did not recall seeing [REDACTED] at the scene until 9:50 p.m.
 - PO Tam denied any involvement in the incident. Furthermore, his height, age, and weight do not match [REDACTED] description.
 - Memo book entries from the three Asian male officers assigned to the 43rd Precinct at the time of the incident did not indicate their response to the incident location.
 - § 87(2)(g) [REDACTED]
 - § 87(2)(g) [REDACTED]
- PO Lazzaro acknowledged interacting with [REDACTED] PO Villafana acknowledged interacting with [REDACTED] and PO Jean acknowledged interacting with [REDACTED] Furthermore, they generally match the descriptions provided by [REDACTED] and [REDACTED] Therefore, Allegations

B, E, and G are pleaded against PO Lazzaro, Allegations C and F are pleaded against PO Villafana, and Allegations D and H are pleaded against PO Jean.

Recommendations:

Allegation A- Abuse of Authority: In the lobby of [REDACTED] [REDACTED] [REDACTED] in the Bronx, an officer stopped [REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B- Abuse of Authority: In the rear of [REDACTED] in the Bronx, PO Johnathan Lazzaro frisked [REDACTED]

Allegation C- Abuse of Authority: In the rear of [REDACTED] in the Bronx, PO July Villafana frisked [REDACTED]

Allegation D- Abuse of Authority: At the rear of [REDACTED] in the Bronx, PO Perry Jean frisked [REDACTED]

It is undisputed that PO Villafana frisked [REDACTED] and PO Jean frisked [REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PO Lazzaro, PO Villafana, PO Jean, and PO Williams consistently stated that they did not specifically suspect the men of any crime other than remaining in the park after dark, and did not believe them to be involved in the prior robbery. None of the officers recalled observing any bulges to the men's clothing, or any specific indicators that the men were armed or violent.

PO Lazzaro did not recall any difficulty in obtaining [REDACTED]'s pedigree information, and did not recall any of the men to protest his actions. PO Jean stated that [REDACTED] refused to leave despite multiple requests, but complied with a request for identification, after which PO Jean frisked him. PO Jean described there was "nothing out of the ordinary" about the three men, and stated that it was "protocol" to frisk, as he did not know what [REDACTED] could have on him. PO Villafana stated that [REDACTED] refused to comply with requests for his name and ID, and that he provided them to her only after she informed him he would be taken to the stationhouse otherwise.

[REDACTED] stated that he did not have ID, but verbally provided his information to PO Villafana, which she wrote down on the summons before she began frisking him. However, PO Villafana stated that she frisked him prior to his provision of the requested information.

An officer may frisk a person if the officer has reasonable suspicion that the person is armed. People v. DeBour, 40 N.Y.2d 210 (1976). (07 Board Review)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation E- Abuse of Authority: At the rear of [REDACTED] in the Bronx, PO Johnathan Lazzaro searched [REDACTED]

Allegation F- Abuse of Authority: At the rear of [REDACTED] in the Bronx, PO July Villafana searched [REDACTED] and his bookbag.

It is undisputed that PO Villafana searched [REDACTED] as well as his bookbag, which contained books.

§ 87(2)(g)

§ 87(2)(g)

PO Villafana stated that she did not believe [REDACTED] to be under arrest at the time of the frisk and searches. She stated that the frisk and search of [REDACTED] and his bookbag were “typical actions” when summonses are issued, as summons were in lieu of an arrest. PO Villafana did not recall feeling any suspicious items or bulges during her frisk of [REDACTED]. She did not observe anything remarkable about the bookbag, which [REDACTED] was holding onto at the time of the stop, and stated that it looked “normal with stuff inside.”

Patrol Guide Procedure 212-11 states that a search is justifiable if a frisk reveals an object which may be a weapon. A search must be incident to an actual arrest, not just to probable cause that might have led to an arrest, but did not. People v. Reid, 24 N.Y.3d 615 (2014). In order to conduct a warrantless search of a container, such as a bag, an officer must have probable cause to believe it contains evidence of a crime and exigent circumstances. People v. Green, 31 Misc. 3d 1238(A) (Sup. Ct., Bronx Co. 2011). (08 Board Review)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation G- Discourtesy: At the rear of [REDACTED] in the Bronx, PO Johnathan Lazzaro spoke rudely to [REDACTED]

Allegation H- Discourtesy: At the rear of [REDACTED] in the Bronx, PO Perry Jean spoke rudely to [REDACTED]

[REDACTED] alleged that when the men questioned the stop, PO Lazzaro told him to “shut the fuck up,” and PO Jean told [REDACTED] “Shut up. You think you know everything, § 87(2)(g) [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PO Lazzaro and PO Jean denied any use of profanity or making the alleged statements. PO Villafana and PO Williams did not witness the allegations.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(4-b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(4-b), § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date